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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,323	02/06/2004	Richard E. Waitkus JR.	016093.0117	8540
23640	7590	02/15/2006	EXAMINER	
BAKER BOTTs, LLP 910 LOUISIANA HOUSTON, TX 77002-4995				GIBSON, RANDY W
		ART UNIT		PAPER NUMBER
				2841

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

B/K

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/774,323	WAITKUS, RICHARD E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Randy W. Gibson	2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 29 December 2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-33 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-33 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 06 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Claim Objections***

2. Claim 7 is objected to because of the following informalities: the phrase "the target level" lacks positive antecedent basis. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-4, 7-11, 14, 15, and 27-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Neumann et al (US # 5,016,197). Neumann disclose the claimed invention including one or more bailers (10) at one or more locations (Col.5, lines 29-35), each bailer having a compression plate (16), one or more weight measurement devices (500), and a weight recording device (Col. 5, lines 46-49). With respect to claim 2, the weight measurement device is a load cell (Col. 15, line 20).

Regard claim 3, the weight, or fullness of the bailer can be determined by a number of means including: hydraulic pressure (Col. 9, lines 47-61); distance traveled

by the compression plate (Col. 12, lines 32-52); or, motor current (Col. 14, lines 9-56).

With regards to claims 7 & 28-32, the device determines when a container is almost full (Col. 15, lines 41-42).

With regards to claim 9, it is disclosed to calculate bailer fullness based on more than one parameter (Col. 14, lines 57-63). With regards to claim 10, the device dispatches a bale hauler (Col. 5, lines 51-53).

With regards to claim 14, it would be inherent that the step of determining when to remove the bales would be based on the hauler's limitations since one could not fill an already full truck; the driver would simply refuse to go to a customer's location until he had a chance to empty his truck first. With regards to claim 33, it is inherent that garbage includes the materials listed.

#### ***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 5, 6, 12, and 16-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neumann et al (US # 5,016,197) in view of Neumann (US # 4,773,027). As discussed above, Neumann ('197) except for determining when a bailer will be full based on the weight of the bale and customer usage patterns (claim 6), and determining when to remove bails based on customer preferences. Neumann ('027) teach that it is known to predict when a bailer will be full based on the detected amount

Art Unit: 2841

of the material in the bale and customer usage patterns (Col. 1, lines 50-68). It would have been obvious to the ordinary practitioner to modify when the bailer of Neumann ('197) predict when a bailer will be full based on the weight of the bale and customer usage patterns, as suggested by Neumann ('027), in order to predict more accurately when a customer needs service.

With regards to claims 5 & 12, since customer usage patterns are already being monitored and recorded, it would have been an obvious step to also record the number and frequency of bales ejected in order to more accurately predict when a customer needs future service.

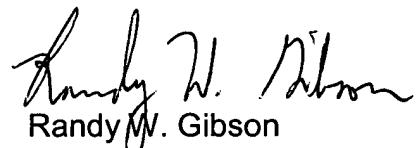
With regards to claims 13 & 22-24, it would be obvious that the hauler would consider customer preferences since it might be impossible to get physical access to the bailer if the hauler arrives at the customer's location outside the customer's normal business hours.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamand Cuneo can be reached on (571) 272-1957. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Randy W. Gibson  
Primary Examiner  
Art Unit 2841